

REMARKS

Written Description Rejections

mechanical

The Examiner rejected claims 56 and 61-63 for failing to comply with the written description requirements. With respect to claim 56, the Examiner is respectfully referred to paragraph 0044 which states in relevant part "When a pedal 231 of a lever arm 208, 210, 212 is depressed, lever arm 208, 210, 212 pivots about pivot bar 206, lock bar 216 rides over cam 240 compressing springs 220 while passing over cam 240 as shown, for example, in FIG. 15, until lock bar 216 reaches extension portion 260, i.e. between cam 240 and first end stop 236, of arcuate surface 234 allowing springs 220 to again expand as shown, for example, in FIG. 16." Thus, the lock is disclosed to be actuatable by depressing the lever arm. Removal of the new matter rejection for claim 56 is respectfully requested.

With respect to claims 61-63, the Examiner is respectfully referred to paragraph 0045 which states in relevant part "When caregiver ceases lifting pedal 231, springs 254, 256 return lever arm 208, 210, 212 to the neutral position." Thus, while not specifically discussing the spring coefficients of the springs 254, 256, the neutral position is clearly defined as the position of rest. Such a position of rest, with the placement of the springs working against each other and without a cam holding the neutral position, necessitates that the springs be in equilibrium in the neutral position with respect to the force they exert on the lever. Likewise, having the neutral position defined as the point of equilibrium also requires that perturbation from the neutral position cause the bias mechanisms to urge the system back toward the equilibrium position. Thus removal of the new matter rejection with respect to claims 61-63 is respectfully requested.

Claims 58-63 were rejected for being indefinite. The claims have been amended to more clearly state valve positions and lever positions. It should be noted that the amendments to claims 58-63 are not limiting amendments, but rather expressly state what was previously inherent. Removal of the indefiniteness rejections is respectfully requested.

Prior Art Rejections

U.S. Patent 5,358,213

Claims 26, 57, and 58 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,358,213 to Pilolla (hereinafter "Pilolla '213"). Pilolla '213 relates to a Faucet Having Automatic and Manual Control Capability.

1. Claim 26

Claim 26 requires and Pilolla '213 fails to disclose "the solenoid being positioned between the manifold and the lever." The Examiner, in his rejection, stated, "A solenoid (140) is positioned between the manifold (which is defined as the areas with the inlet, outlet, and conduit therebetween)." The Examiner also states "A lever (182) is pivotally connected to the manifold (see ref. no. 189 and column 5, lines 33-37)." First, the Examiner has attempted to define the manifold as an area. Claim 26 requires the manifold to be a piece, not an area. Secondly, the Examiner is not consistent in his application of his definition of the manifold. Clearly, the pivotal connection 189, which the Examiner states is part of the manifold, is not part of "the inlet, outlet, and conduit therebetween" which the Examiner has stated to be the boundaries of the manifold. Therefore, the Examiner has improperly defined the manifold and the Examiner has not been consistent in his definition.

The Examiner further responded to Applicant's arguments by stating that the Applicant has not made arguments consistent with the Applicant's own definition of manifold. Applicant notes that the Applicant has consistently defined manifold as a piece that contains the inlet, outlet, and conduit therebetween. The piece of Pilolla that contains the inlet, outlet, and conduit therebetween also extends upward, houses a solenoid, and couples to the lever. As such, claim 26 is not anticipated by Pilolla '213. Removal of the rejection is respectfully requested.

2. Claim 57

Claim 57 depends from claim 26. In that claim 26 is believed to be allowable, claim 57 is also believed to be allowable. Removal of the rejection is respectfully requested.

3. Claim 58

Claim 58 requires and Pilolla fails to disclose "first and second bias mechanisms." The Examiner stated "Re claim 58, the broadly worded biasing mechanisms can be read as the user's hand lifting the lever and gravity working in the other direction." The Applicant respectfully disagrees with the Examiner's interpretation. While the language of claim 58 is broad to encompass any number of biasing mechanisms, such a term does not read on a user's hand and gravity. Furthermore, the claim requires "the lever including first and second bias mechanisms." The lever of Pilolla does not include a user's hand, nor does it include

gravity. Such a reading is improper and removal of the rejection is respectfully requested.

Pilolla '213 and U.S. Patent No. 5,487,493

Claims 22-24, 55, and 56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pilolla '213 in view of U.S. Patent No. 5,487,493 to McNabb (hereinafter "McNabb"). McNabb teaches a Frozen Beverage Dispensing Apparatus including a valve 14. Valve 14 includes a valve body 16, a dispensing faucet 18, and lever member 20. Lever member 20 is provided for operating valve 14. A securing device 22 is provided for securing lever member 20 in response to a predetermined condition. When the apparatus is in a defrost cycle, a beverage therein will be in a more liquid state and will be dispensed with greater force than when the beverage is more frozen. Therefore, the securing device 22 engages the lever member 20 when the apparatus is in defrost cycle to prevent the lever member 20 from moving so as to open the valve 14.

1. Claim 22

McNabb is not properly combinable with Pilolla '213. There exists no suggestion within the references to justify the proposed combination. The securing device 22 of McNabb is provided to prevent the opening of the valve 14. The lock prevents the lever from being moved as the contents are defrosted. There is no teaching of locking the lever of McNabb in an open position. Furthermore, Pilolla does not disclose or suggest a lock.

The Examiner has stated that the proposed combination results in a lock holding the lever of Pilolla in an open position. Nothing in Pilolla discloses a lock, and the lock in McNabb only teaches locking a valve in a closed position to prevent leakage. There is no reason to apply a lock to the faucet of Pilolla. The lever of Pilolla employs a friction hinge such that the lever stays in any position in which it is placed. This is different that the present invention where there is constant urging of a lever to the first (closed) position. Furthermore, the pressure of the water within the valve can not act so as to alter the position of the handle as is present in the McNabb patent. (Water pressure could only act to open the valve, and due to the loss movement connection between the valve and the lever, opening the valve would not move the lever.) Therefore, not only is there no suggestion for combination, but the reason for having a lock on McNabb is not a reason that can be

applied to Pilolla. The proposed combination is a product of impermissible hindsight and an attempt to find the claimed elements and place them together without motivation to do so.

Even if there was a suggestion for the proposed combination, attaching a securing device to the lever of Pilolla will not result in preventing the opening of the valve. Thus, the combination does not arrive at the claimed invention. By virtue of the lost motion connection between the levers (182, 160) and the armature 156/valve member 100, locking the position of the levers (182,160) will not lock the valve in the closed position. Therefore, one attempting to lock the position of the valve would not apply the securing device 22 of McNabb. The fact that the combination results in a non-working device is another indication that there is no motivation to combine the two references as described. Therefore, claim 22 is believed to be allowable. Removal of the rejection is respectfully requested.

2. Claims 23-24 and 55-56

Claims 23-24 and 55-56 depend from claim 22. Because claim 22 is believed to be allowable, claims 23-24 and 55-56 are also believed to be allowable with respect to the proposed combination. Additionally, claim 55 requires that the lock is integral with the lever. The Examiner has misinterpreted the integral lock to mean a non-integral lock. The Examiner is referred to extension portion 260 of pedal 231. Extension portion 260 acts as a lock by fixing the position of the lock bar and of the lever arm 208 when the lock bar is within the extension portion 260. Extension portion 260 is integral with the lever arm 208. Additionally, claim 56 requires that the lock is activated by pressure on the lever. This requires that the application of pressure to the lever activates the lock. The Examiner has stated that pressure can be read to mean "solenoid actuated" and that the lock of McNabb is solenoid actuated. This is an improper reading of the present claim. There is no amount of pressure that can be applied to the lever of McNabb that will cause the lock to be applied or cause the solenoid to be activated. The application of the lock in McNabb is independent of any pressures felt by the lever. The Examiner has apparently confused "a lock that applies pressure" of McNabb with "pressure causing application of a lock" as required in claim 56. Furthermore, the lock of McNabb is not applied by pressure to the lever, it is applied by activation of a solenoid. Removal of the rejections of claim 23-24 and 55-56 is respectfully requested.


Final Remarks

The Applicant believes this application is in condition for allowance in its present form and respectfully requests that the Examiner so find and issue a Notice of Allowance in due course. The Examiner is asked to call the Applicant's attorney, Ryan C. Barker, at (317) 684-5295 to address any outstanding issues to further expedite the prosecution of this application for all parties.

If necessary, the Applicant requests that this Response be considered a request for an extension of time for a time appropriate for the response to be timely filed. The Applicant requests that any required fees needed beyond those submitted with this Response be charged to the account of Bose McKinney & Evans, Deposit Account Number 02-3223.

Respectfully submitted,

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